

REMARKS

Reconsideration and allowance of this application are respectfully requested in view of the foregoing amendments and the following explanations and remarks.

The applicant, *pro se*, previously prepared and submitted an amendment filed 07/25/2005 in response to the prior non-final Office Action dated 05/17/2005. The applicant, who was unfamiliar with the proper Patent Office procedure for amending an application, submitted a rewritten specification, a set of drawings, and new claims. In the current Office Action dated 08/14/2006, the amendment filed 07/25/2005, by the applicant in response to the prior Office Action, was deemed to be non-compliant, as failing to properly amend the claims and submit a fee for excess claims.

Applicant has now retained the undersigned agent to prosecute this application. Applicant's newly appointed agent has carefully reviewed the outstanding Office Action dated 05/17/ 2005, and applicant's non-compliant amendment filed 07/25/2005. Applicant's newly appointed agent requests that the 07/25/2005 non-compliant amendment that was filed by the applicant, *pro se*, including the claims presented therein not be entered, and that this current amendment be accepted and entered. This amendment addresses the issues presented in the outstanding Office Action dated 05/17/2005, and amends the claims as originally presented in the application as filed.

On page 2 of the 05/17/2006 Office Action, the drawings were objected to under 37 CFR 1.83 (p)(4) because the reference character "18" was used to designate both the off/on button and the viewing port.

Proposed corrections to the drawings are attached hereto with the corrections indicated in red ink. It is respectfully requested that the proposed drawing corrections be accepted and entered. "Replacement Sheets" of drawings incorporating the proposed corrections will be submitted upon approval of the proposed corrections.

The specification has been amended to incorporate the proper reference character designations corresponding to the corrected drawings, and to correct several inconsistencies and informalities in the some of the components assigned the same reference numerals, so as to be consistent throughout, and to avoid confusion. The specification has also been amended to substitute the term serpentine for the term "serpentiginous" to more accurately and correctly define the open channel configuration. The specification has also been amended to substitute the term positioning mechanism for the term "positional viewing mechanism"; to substitute the term terminal face for the term "terminal edge surface"; and to substitute the term image conductor for the term "image conducting system" to avoid confusion.

No new matter has been added, and support for the amendatory language is found throughout the abstract specification, drawings, and claims, as originally submitted.

On page 2 of the 05/17/2006 Office Action, original claim 1 was objected to because of the words "and" in line 4 following "distal portion" and "proximal portion"; and because line 7 contained a period, making it more than one sentence. Claim 1 has amended to correct the informalities.

Applicant's agent wishes to next discuss the Examiners statement on page 6 of the Office Action regarding claim 5, and then the rejection of the claims under 35 U.S.C. 103(a) based on the cited references.

On page 6 of the Office Action, claim 5 was deemed to be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims.

Rather than rewrite provisionally allowable claim 5 in independent form, base claim 1 has been amended to include the subject matter of provisionally allowable claim 5, which should now make amended claim 1 an allowable base claim.

Remaining claims 2-4, 9, 13 and 15, as amended, now depend directly from an allowable base claim and inherently include the subject matter deemed to be allowable, comply with 35 U.S.C. 112, second paragraph, and should now be allowable along with amended base claim 1.

Further discussion of the rejection of claims 1-4, 9, 13 and 15 under 35 U.S.C. 103(a) based on Lee et al (U.S. 5,840,013) in view of Ehmsen et al (U.S. 5,377,668), is believed to be moot since the claims now contain subject matter deemed to be allowable and are believed to be allowable for the reasons set forth above.

The remarks set forth above are equally applicable to newly presented claim 16, which is directed toward applicant's digital image viewing system. Support for newly presented claim 16 is found in the Abstract, and at line 7 of page 4, and the last sentence of page 8, in the specification as originally presented; and in original claims 9 and 10, and does not constitute new matter.

It is respectfully submitted that none of the references, either alone or in combination, show or suggest the apparatus of newly presented claim 16, and that claim 16 should be an allowable claim.

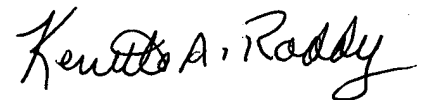
Applicant's newly appointed agent has also submitted herewith a Supplemental Information Disclosure Statement, disclosing a published patent application, that was recently brought to his attention, in which the applicant of the present invention was a co-inventor, and which was published during the pendency of the present application. The published application, 20040019256, Serial No. 10/201,738, was published on January 29, 2004, approximately 3 months after the present application was filed, and was filed on July 24, 2002, more than one-year prior to the filing date of the present application.

The published application 20040019256 is directed toward an earlier version of the endotracheal intubation device that utilizes optical fibers and an eyepiece at the end of a gooseneck fiber conduit extending from the housing which can be bent into a plurality of angular orientations with respect to the housing, and has an open channel on the scabbard that is partially obstructed by a plurality of spaced-apart, interdigitated fingers for receiving an endotracheal tube.

Accordingly, in view of the foregoing amendments, explanations and remarks it is respectfully requested that claims 1, 2-4, 9, 13 and 15, as now amended, be reconsidered and allowed, and that newly presented claim 16 be entered and allowed, and that this application be passed to issue.

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Respectfully submitted,



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AMENDMENT TO THE DRAWINGS

Please accept and enter the attached two sheets of Proposed Drawing Corrections with proposed corrections shown in red ink. Replacement Sheets of drawings with the changes incorporated will be provided upon approval of the proposed corrections.

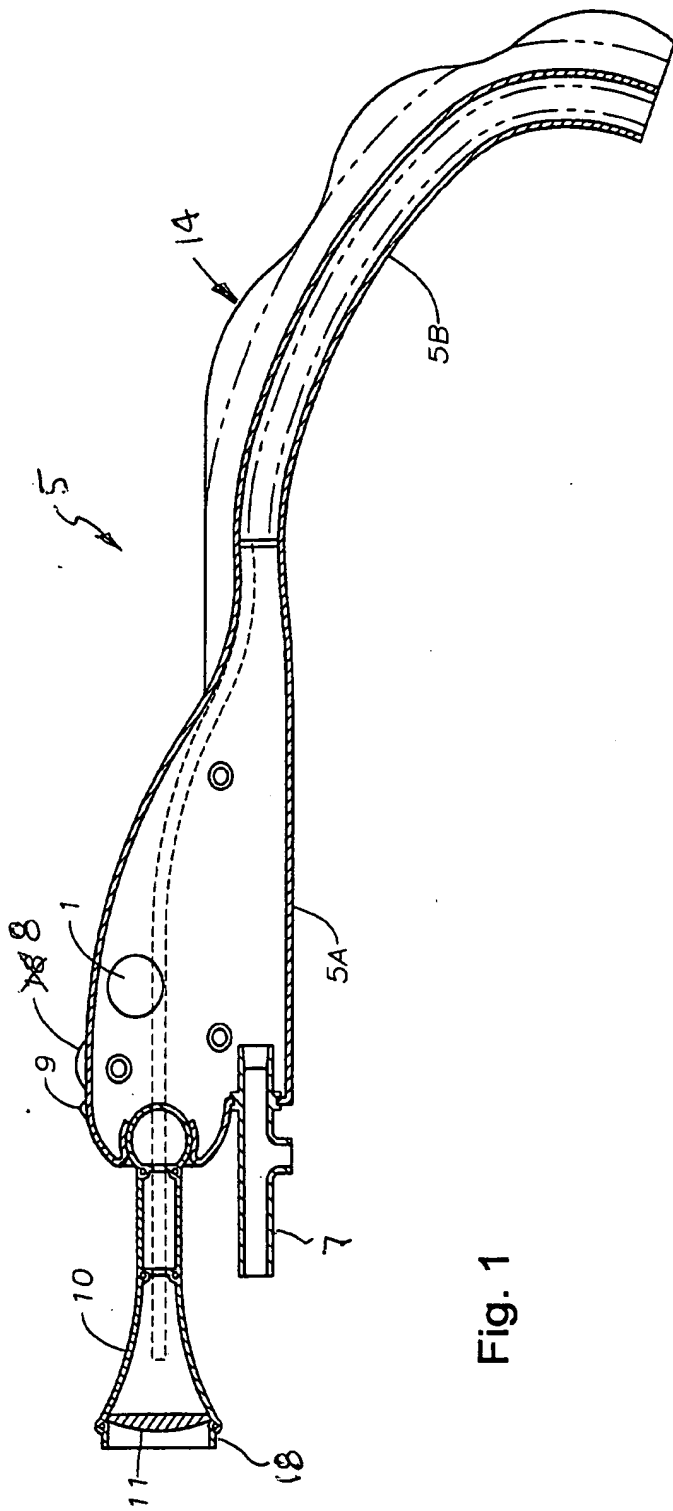


Fig. 1

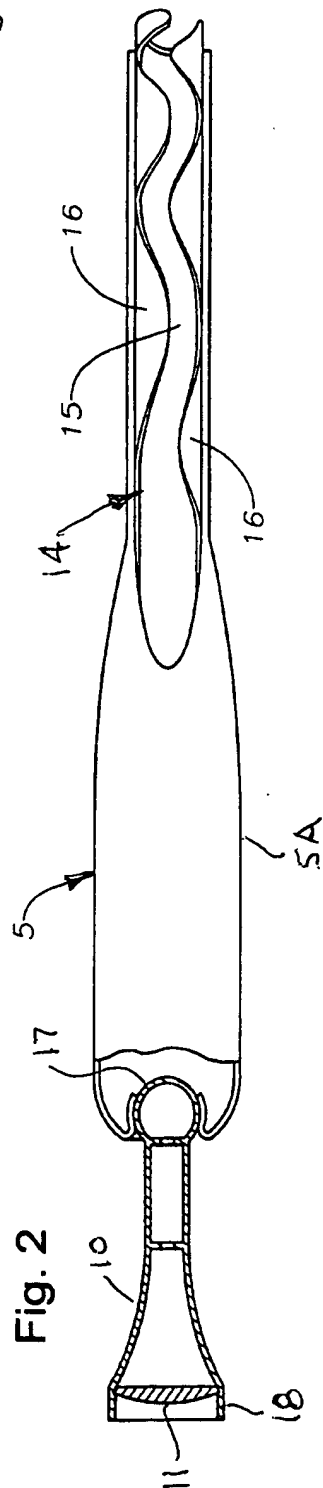


Fig. 2

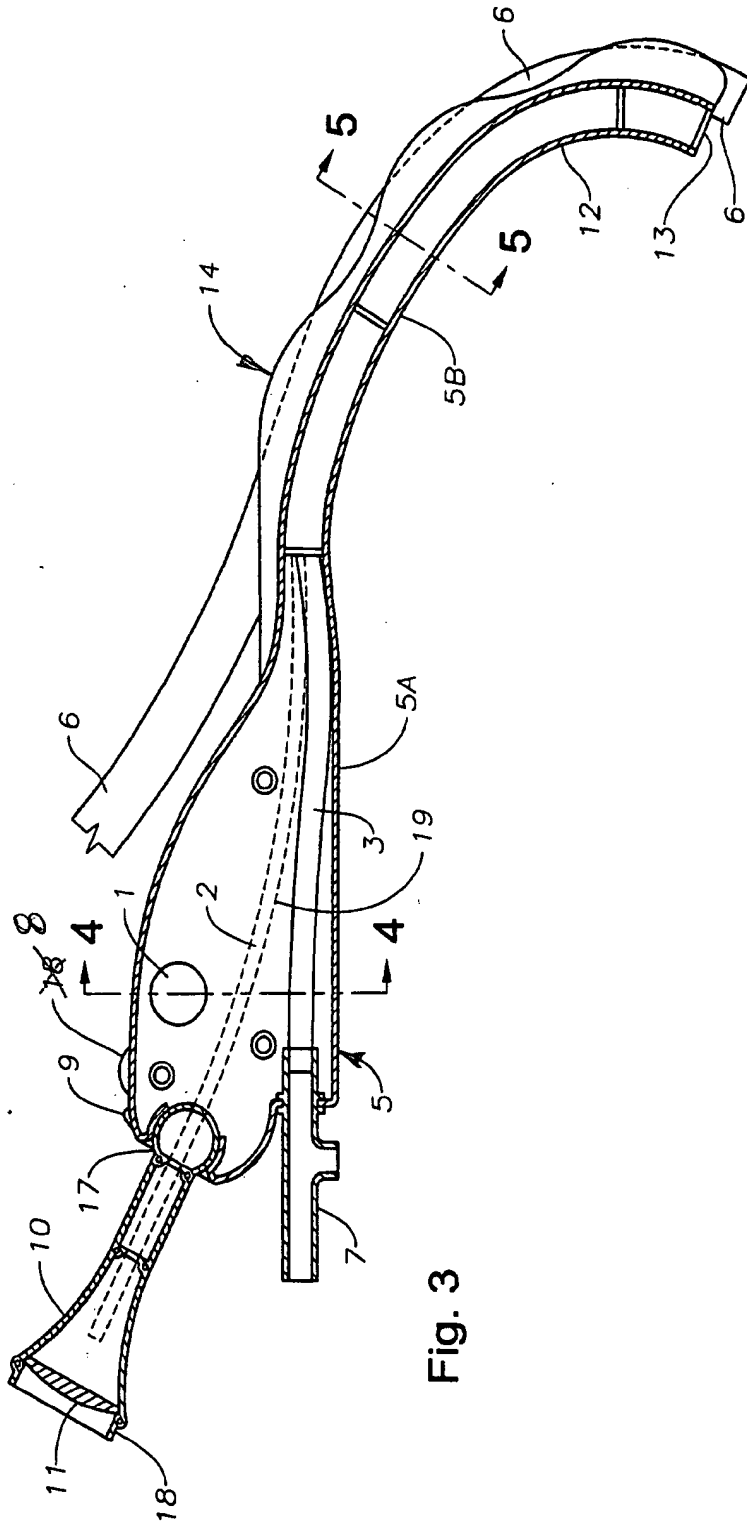


Fig. 3

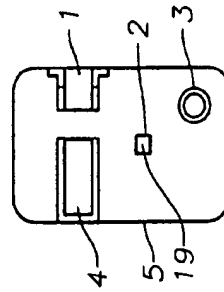


Fig. 4

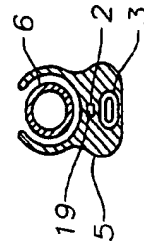


Fig. 5



Fig. 6